



The Honorable Al Franken
Chairman, Subcommittee on Privacy, Technology and the Law
United States Senate
Committee on the Judiciary
Washington, DC 20510-6275

December 14, 2011

Dear Chairman Franken:

HTC Corporation ("HTC") genuinely values consumer privacy and strives to provide consumers with the ability to make informed choices about data collection and sharing. We want to provide consumers with the best possible experience on our devices. HTC understands your concerns about Carrier IQ and consumer privacy and appreciates the opportunity to respond to your December 1, 2011 letter. We hope that the following responses based on HTC devices in the U.S. market address your concerns.

To put our responses in context, we thought some background on HTC's relationship with Carrier IQ and the wireless service providers as well as the related data flow would be helpful. HTC does not own the Carrier IQ software. The Carrier IQ software and service are developed and managed by Carrier IQ and used by providers of wireless services such as Sprint, T-Mobile, and AT&T.

The wireless service providers, to the best of HTC's knowledge, use the software and the data collected for service-related purposes. HTC does not use the Carrier IQ software for its own purposes; our involvement with the Carrier IQ software and service is limited to integrating the Carrier IQ software into certain HTC devices. This integration is required by the wireless service providers and performed under contract and per their specifications. The Carrier IQ software collects data specified by the wireless service providers, processes it, and transmits it off the HTC Devices ("Carrier IQ Data"). It is our understanding that the Carrier IQ Data is ultimately sent by Carrier IQ to the respective wireless service providers. HTC is not a customer of Carrier IQ and does not receive or use Carrier IQ Data.

As part of the integration of Carrier IQ into HTC devices performed on behalf of Sprint and AT&T, HTC had developed a software component based on their respective specifications. This software component enables the Carrier IQ software to collect additional data specified by Sprint and AT&T from HTC devices ("Carrier IQ-Related Data") and then delivers the specified data to the Carrier IQ software on the device.

As the software and systems are designed, HTC does not receive or have access to any of the Carrier IQ Data or the Carrier IQ-Related Data, nor does it use the Carrier IQ Data or the Carrier IQ-Related Data. HTC is aware of recent claims that have been made about possible errors in the integration of the software component causing unintended results. The claims speculate that the line of testing ("debug") code was not deleted before the full code went into final production. If so, this line of code may have caused Carrier IQ-Related Data intended to be sent to the Carrier IQ software to be copied into system log files stored on a user's phone at the same time that the Carrier IQ-Related data is being delivered to the Carrier IQ client on the device.



System log files typically store reports about a user's device such as error and event reports. Access to system log files is limited to error reporting mechanisms such as the optional Tell HTC reporting mechanism, Google Android's error reporting mechanisms, and any applications authorized by the user. HTC has not received any reports of unauthorized access to system log files and has no reason to believe this has occurred. HTC takes vulnerability claims very seriously and is actively investigating these error claims and exploring various ways to mitigate potential risks to consumers.

Accordingly, because of the relationships between Carrier IQ and the wireless carriers and the data flow described above, HTC is not an intended recipient of Carrier IQ Data or Carrier IQ-Related Data and some of the questions below are not directly applicable to HTC. Nonetheless, we are continuing our on-going investigation into the Carrier IQ-Related Data that may have been inadvertently stored in system logs and will take any necessary remedial action.

We are actively working with our carrier partners to discuss ways to address consumer concerns about the Carrier IQ software as expeditiously as commercially and technically feasible.

(1) On what devices does your company use or install Carrier IQ software?

HTC does not use the Carrier IQ software for its own purposes. The Carrier IQ software is used by providers of wireless services. HTC integrates the Carrier IQ software as contractually required by these wireless service providers who, to the best of HTC's knowledge, use the software for service-related purposes.

As requested by wireless service providers in the United States, HTC integrated Carrier IQ software for active use on the Snap, Touch Pro2, Hero, Evo 4G, Evo Shift 4G, Evo 3D and Evo Design available through Sprint, the Vivid available through AT&T, and the Amaze 4G available through T-Mobile.

Components of the Carrier IQ solution have been found on the following HTC devices: Merge, Acquire, Desire, Wildfire, Flyer and a variant of Hero. To the best of our knowledge, these components are not collecting or reporting any data. We are investigating this to confirm. The Carrier IQ software components in the Merge, Acquire, Desire, Wildfire, Flyer and a variant of Hero are not requested by the wireless service providers who sell these devices. HTC is currently working on an update to remove these software components from these devices.

(2) As of what date has your company used or installed this software on these devices?

HTC does not use the Carrier IQ software for its own purposes. The Carrier IQ software is used by providers of wireless services such as Sprint, T-Mobile and AT&T. HTC integrates the Carrier IQ software as contractually required by these wireless service providers who, to the best of HTC's knowledge, use the software for service-related purposes.



The Carrier IQ software was first integrated on the Hero, which became available to customers through Sprint on October 2009. Other HTC devices that use the integrated Carrier IQ software and the date of their availability in the U.S. market are listed below:

Snap (Sprint) – June 2009
Touch Pro 2 (Sprint) – September 2009
Hero (Sprint) – October 2009
Evo 4G (Sprint) – June 2010
Evo Shift 4G (Sprint) – January 2011
Evo 3D (Sprint) – June 2011
Evo Design (Sprint) – October 2011
Amaze 4G (T-Mobile) – October 2011
Vivid (AT&T) – November 2011

(3) To the best of your knowledge, how many American consumers use these devices?

To the best of our knowledge, based on figures from wireless service providers, approximately 6.3 million HTC devices using the Carrier IQ software are active devices.

(4) Does your company receive customer location data collected by Carrier IQ software or by Carrier IQ?

As the Carrier IQ system was designed, HTC is not an intended recipient of any Carrier IQ Data or Carrier IQ-Related Data, including any location data. HTC does not receive any Carrier IQ Data. HTC is investigating whether any Carrier IQ Related Data may have been inadvertently received through error reporting mechanisms due to the claimed debug coding error.

(5) What other data does your company receive that has been collected by Carrier IQ software or by Carrier IQ?

As the Carrier IQ system was designed, HTC is not an intended recipient of any Carrier IQ Data or Carrier IQ-Related Data. HTC does not receive any Carrier IQ Data.. HTC is investigating whether Carrier IQ-Related Data may have been inadvertently received through error reporting mechanisms due to the claimed debug coding error.

(6) If your company receives data, does it subsequently share it with third parties? With whom does it share this data? What data is shared?

As the Carrier IQ system was designed, HTC is not an intended recipient of any Carrier IQ Data or Carrier IQ-Related Data. HTC does not receive any Carrier IQ Data and, thus, does not share any Carrier IQ Data with third parties.



HTC is investigating whether due to the claimed debug coding error Carrier IQ-Related Data may have been inadvertently accessible by third party applications and error reporting mechanisms

(7) Has your company disclosed this data to federal or state law enforcement?

HTC has not received any requests for disclosure of Carrier IQ Data or Carrier IQ-Related Data from federal or state law enforcement.

(8) How long does your company store this data?

As the Carrier IQ system was designed, HTC is not an intended recipient of any Carrier IQ Data or Carrier IQ-Related Data. HTC does not receive any Carrier IQ Data and, thus, does not store any Carrier IQ Data..

HTC is investigating whether Carrier IQ-Related Data may have been inadvertently received and stored through error reporting mechanisms.

(9) How does your company protect this data against hackers and other security threats?

As the Carrier IQ system was designed, HTC is not an intended recipient of any Carrier IQ Data or Carrier IQ-Related Data and, thus, does not manage the protection of Carrier IQ Data or Carrier IQ-Related Data.

HTC is investigating whether Carrier IQ-Related Data may have been inadvertently received through error reporting mechanisms. If so, error reporting data collected by HTC is protected using appropriate processes and methods.

(10) Does your company believe that its actions comply with the Electronic Communications Privacy Act, including the pen register statute (18 USC § 3121 et seq.), the federal wiretap statute (18 U.S.C. § 2511 et seq.), and the Stored Communications Act (18 U.S.C. § 2701 et seq.)?

To the extent HTC's actions related to the Carrier IQ software are subject to the Electronic Communications Privacy Act, HTC believes they comply with the Act because, among other reasons, they fall within the service provider and consent exceptions to this statute.

(11) Does your company believe that its action comply with the Computer Fraud and Abuse Act (18 U.S.C. § 1030)?

To the extent HTC's actions related to the Carrier IQ software are subject to the Computer Fraud and Abuse Act, HTC believes they comply with the Act because, among other reasons, they were authorized.



(12) Does your company believe that its actions comply with your privacy policy?

The privacy policies of HTC do not apply to Carrier IQ Data or Carrier IQ-Related Data. HTC was not an intended recipient of Carrier IQ Data or Carrier IQ-Related Data and did not receive any Carrier IQ Data. Similar to other typical privacy policies of major companies, HTC privacy policies do not cover data it does not intend to receive. If HTC inadvertently received Carrier IQ-Related Data due to the claimed debug coding error, we will do what is appropriate to protect any such data.

(13) Does it believe that consumers are aware that this activity is actually occurring on their devices?

To the best of HTC's knowledge the wireless service providers have made their collection activities known via their privacy policies and terms of use. The Federal Trade Commission staff also recognize that consumers "reasonably anticipate, and are likely to accept, that an [electronic communication service provider] will monitor the transmission of data for reasons related to providing the [related service], such as to ensure that their service is not interrupted or to detect and block the transmission of computer viruses or malware." Accordingly, the FTC calls this type of activity a "commonly accepted practice." Other commonly accepted practices for which the FTC staff has stated choice is not necessary would be internal operations such as "improving services offered, fraud prevention, legal compliance, and first-party marketing." (See December 2010, FTC Staff Report: Protecting Consumer Privacy in an Era of Rapid Change page vi and page 53).

HTC recognizes that protecting consumer privacy is an on-going responsibility. We take this responsibility very seriously and will continue to develop and invest in processes that promote and encourage informed choice and improved protections for consumers.

We thank you for the opportunity to respond to your concerns.

Sincerely,

Peter Chou
CEO
HTC Corporation